



# WEBER COUNTY SUMMARY CONTRACT SHEET

CONTRACT NO. \_\_\_\_\_

The Originating Department and Preliminary Approval Sections must be completed BEFORE submitting contract for the agenda.

ORIGINATING DEPARTMENT			
<b>TYPE OF CONTRACT:</b> <input type="checkbox"/> New <input checked="" type="checkbox"/> Renewal <input type="checkbox"/> Change Order to Contract #			
<b>CONTRACTOR/VENDOR:</b> <u>DMW Industries Inc.</u>			
Address: <u>1755 Art St. Bakersfield, CA. 93312</u>			
Phone: <u>661-345-5220</u> Contact Person: <u>Lori Miller</u>			
W-9 Attached <input type="checkbox"/> N/A <input checked="" type="checkbox"/> Email: <u>lorimiller85@yahoo.c</u>			
<b>CONTRACT TITLE:</b> <u>DMW Industries Inc. Facility Agreement</u>			
<b>PURPOSE:</b> <u>Renewal of Ogden Mustang Contract</u>			
<b># OF ORIGINALS ENCLOSED:</b> at least 2 or 1/entity: _____		<b>ALL ATTACHMENTS INCLUDED:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
<b>EFFECTIVE DATE:</b> <u>September 1, 2017</u>		<b>TERMINATION DATE:</b> <u>August 31, 2022</u>	
<b>ORG:</b> <u>14540000</u>	<b>OBJECT:</b> <u>Multiple</u>	<b>PROJECT:</b> _____	
<b>AMOUNT BY YEAR:</b> \$ <u>Approx- \$65,000</u>		<input checked="" type="checkbox"/> Revenue <input type="checkbox"/> Expenditures	<input checked="" type="checkbox"/> One-Time <input type="checkbox"/> Ongoing
<b>COMMISSION PRESENTER + PHONE #:</b> <u>Todd Ferrario 801-778-6354</u>			
<b>SPECIAL INSTRUCTIONS/COMMENTS:</b>  			
PRELIMINARY APPROVALS			
DEPARTMENT HEAD	APPROVED BY: 	DATE APPROVED:	<b>RECOMMENDED</b> <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
COUNTY ATTORNEY	APPROVED BY: 	DATE APPROVED: <u>3/22/18</u>	<b>REVISIONS NECESSARY</b> <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
PURCHASING:	APPROVED BY: 	DATE APPROVED: <u>3-22-18</u>	<b>COMPLIES W/ PURCHASING POLICIES</b> <input type="checkbox"/> YES <input type="checkbox"/> NO <u>N/A</u>
COMPTROLLER:	APPROVED BY: 	DATE APPROVED: <u>3/22/18</u>	<b>BUDGET AVAILABLE:</b> <input type="checkbox"/> YES <input type="checkbox"/> NO <u>N/A</u>
<b>COMMENTS:</b>  			
COUNTY COMMISSION APPROVAL			
<b>COMMISSION APPROVAL:</b> _____			<b>DATE APPROVED:</b> _____
<b>VOTING RECORD:</b> Ebert                      Gibson                      Harvey			
<b>COMMENTS:</b>  			
<b>RETURN AN ORIGINAL CONTRACT TO THE CLERK/AUDITOR'S OFFICE AFTER ALL SIGNATURES HAVE BEEN OBTAINED</b>			

**DMW INDUSTRIES INC.  
FACILITY AGREEMENT**

This Agreement ("Agreement") is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2017, by and between DMW Industries Inc. ("Company") and the Weber County Ice Sheet ("County") (collectively "Parties" and individually "Party"):

**WHEREAS**, Company has obtained, and is currently in operation of, a "JR A" hockey team in the Ogden, Utah territory; and

**WHEREAS**, The league runs a 60 game schedule (30 home and 30 away games in two or three game series on consecutive Friday and Saturday evenings and some Sunday afternoons) from September through March each year; and

**WHEREAS**, County owns and operates an Ice Sheet ("Facility") located at 4390 Harrison Blvd. in Ogden, Utah, that has all of the furnishings, fixtures, and equipment necessary to host hockey games; and

**WHEREAS**, Company has leased the Facility in the past for its hockey games and Company is seeking to renew its lease of the Facility;

**NOW THEREFORE**, in consideration of the mutual promises and covenants contained herein, the Parties agree as follows:

1. Lease of Premises: County agrees to lease the Facility to Company pursuant to the terms, conditions, and covenants set forth herein.
2. Term: The term of this Agreement shall commence on the 1<sup>st</sup> of September, 2017 and shall end on the 31<sup>st</sup> of August, 2022. At the conclusion of the term of this Agreement, the Parties may renew this Agreement for an additional 5 year term upon mutual consent and in writing.
3. Fees and Payments: Company shall pay the following to County on the 15<sup>th</sup> of each month for the lease of Facility:
  - a. \$200 an hour per game in an all-inclusive lease fee, with no more than a 5% increase to ice costs every 3 years.
  - b. \$175 per 1.25 hour practice session, with no more than a 5% increase to ice costs every 3 years.
  - c. \$1 per ticket for all paid admissions per game. Company shall provide ticket stock at its own cost.
4. Security: Security is to be provided by the Weber State Police Department and shall be arranged and paid for by the Company.
5. Advertising in the Facility: The Company will have the exclusive right to sell all signage and

sponsorship in Facility except for naming rights. The net revenue from the advertising sales will be split between Company and the County with the Company retaining 75% of the revenue and the County receiving 25% of the revenue.

Prior to May 1<sup>st</sup> each year, County and Company will calculate advertising revenue to determine the appropriate split and Company will pay County its portion. County will subtract \$6,500 or 25% from its portion of the revenue (in exchange for County retaining 100% of beer sales). Company and Facility shall review and agree on the sales price list for advertising prior to May 1<sup>st</sup> of each year.

Company shall have the right to have sponsors in place and sell or give away product in the Facility with prior approval of the County. Company shall have the opportunity to negotiate with beverage and other food suppliers for the sponsorship as well.

6. Concessions. All revenue from concessions that are sold by the Facility shall belong to the County. Company may sell merchandise on game nights at the Facility and keep all revenue therefrom.
7. Beer. County will have the sole and exclusive right to sell beer at Facility. All revenue from beer sales shall belong to the County.
8. Staffing: The lease fee includes up to seven on-shift staff, which includes, but is not limited to: ushers, ticket takers, and box office staff. The Company will be responsible to provide and manage its game night staff, all required major and minor officials, medical personnel, and security.
9. Facility Issues: While the Facility is an outstanding facility, there are some improvements that should be considered. In the event Company believes that certain improvements should be made, Company will notify County, and County will make reasonable efforts to improve the Facility.
10. Alterations to Facility: Under no circumstances will Company, or any of its members or volunteers, be allowed to make alterations to the Facility without written permission from the County. All improvements that are connected to the Facility become the property of the Facility even if such changes or improvements were made by the Company.
11. Game Time. Home game time will be no later than 7:30 PM, with a pre-game warm-up starting a half hour before.
12. Locker room. The Facility currently provides the Company with an exclusive Locker Room as the Company's dedicated Locker Room and will continue to provide it throughout the duration of this Agreement at no additional charge. The three rooms, formerly known as the referee's complex, have been modified to add extra showers, toilets, portable washers, and dryer hookups. The Facility has agreed to allow the Company to build an equipment room, locker room and enclose a coach's office by installing necessary walls as its own expense. The facility has also provided phone and internet to the coach's office.

13. TV and Radio. Electricity, internet, and phone service for TV and radio will be provided at the Media Area.
14. Exclusivity. During the term of this Agreement, Company will be the exclusive ice hockey tenant of the Facility. The parties acknowledge that Weber State Club Hockey and Utah High School Hockey playoffs are exempt from this exclusivity clause. Other hockey related gate events will be allowed only upon mutual agreement.
15. Early Termination. Either party may terminate this Agreement by giving sixty (60) days written notice to the other party for any reason.
16. Additional Construction. The Company will be notified in advance of any expansion plans.
17. Damage/Replacement. Company will be responsible to repair, or replace if necessary, any and all structures, tables, signs, walls, doors, lockers, equipment, etc., that are damaged by Company and/or its volunteers during the term of this Agreement.
18. Amendments to Agreement. This Agreement may be modified only by a written amendment signed by authorized representatives of the Parties.
19. Insurance: Company shall provide the County with certificates of insurance, verifying coverage as specified below. Company shall maintain the insurance policies during the term of the Agreement, and for a minimum of one year after the termination of the Agreement.
  - a. Company agrees to secure and maintain worker's compensation insurance for any employee or sub-contractor working to provide services under this Agreement (Utah Code Ann. § 34A-2-201).
  - b. Company shall maintain commercial general liability insurance with a limit of not less than \$1,000,000 per occurrence properly endorsed to name the Facility and County as an additional insured.
  - c. Company shall agree to obtain products and completed operations liability insurance either as a separate policy with a limit of not less than \$1,000,000 per occurrence properly endorsed to name the Facility and County as an additional insured, or as an endorsement to the General Liability Insurance required above.
20. Indemnification. Company shall defend, indemnify, and hold County, its agents, and employees harmless from and against all claims, liabilities, loss and expense, including reasonable costs expenses and attorney's fees incurred, which arise by reason of the acts or omissions of Company, its officers, agents, and employees, resulting directly or indirectly from the performance of this Agreement.
21. Independent Contractor. In the performance of this Agreement, Company shall at all times operate as an independent contractor and not as an employee of the County. All persons employed or volunteering for Company in the performance of services hereunder shall be



under the sole and exclusive direction and control of Company and shall not be considered employees of the County.

22. Governing Law. This Agreement shall be governed by and interpreted under the laws of the State of Utah. All disputes or litigations arising from or in connection with this Agreement shall be heard in the courts of the State of Utah, with venue in Weber County.
23. Assignment. The rights and obligations of Company shall not be assigned to a third party without prior written consent of the County. Otherwise, this Agreement shall be binding upon and shall inure to the benefit of the parties and their respective successors and assigns.
24. Severability: It is understood and agreed by the Parties that if any part, term, or provision of this Agreement is held by the courts to be illegal or in conflict with any law of the state where made, the remaining provisions will be valid and enforced as if the Agreement did not contain the particular part, term, or provision held to be invalid.
25. Authority: The individuals executing this Agreement represent and warrant that they have full legal power and authority to enter into this Agreement described herein.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2017. <sup>18</sup>

BOARD OF COUNTY COMMISSIONERS  
OF WEBER COUNTY

By \_\_\_\_\_  
James H. "Jim" Harvey, Chair

Commissioner Ebert voted \_\_\_\_\_  
Commissioner Gibson voted \_\_\_\_\_  
Commissioner Harvey voted \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Ricky Hatch, CPA  
Weber County Clerk/Auditor

By \_\_\_\_\_  
The Ice Sheet

By \_\_\_\_\_  
DMW Industries Inc.  
DAVID M. MILLER